IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.927 of 2008
BINOD KUMAR YADAV
Versus
STATE OF BIHAR
---

2. 29.8.2008. This revision has been preferred against the judgment dated 2nd June,2008 passed by Fast Track Court No.V, Sheikhpura in Cr. Appeal No.202 of 2001 thereby judgment of conviction and sentence dated 8th October,2001 passed by Sri Piyush Kamal Dixit, Judicial Magistrate, Ist Class, Sheikhpura in Trial No.553 of 2001 has been confirmed.

The learned Judicial Magistrate has convicted the petitioner under section 47 A of the Excise Act and sentenced him to undergo S.I. for three years with a fine of Rs.1,000/- and in default further undergo imprisonment for one month.

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The only submission of the learned counsel for the petitioner is that it is the first offence of the petitioner. The petitioner has already harassed for seven years. Therefore, the sentence of three months is disproportionate to the offence alleged. However, the learned counsel did not challenge the order of conviction.

Considered the submission of the learned counsel for the petitioner and also perused both the judgments. The petitioner was found in possession of more than 300 litres of country made wine. However, the petitioner has remained in jail custody for one month is his first offence.

In the facts and circumstances, the sentence awarded to the

petitioner is hereby modified to the extent of period already undergone with a fine of Rs.1,000/-. In case of default to pay fine, the petitioner shall further undergo S.I. for one month.

Accordingly, this application is allowed with above modification in sentence only.

Let a copy of this order be sent to the court below through fax on cost being deposited by the petitioner.

(Ghanshyam Prasad)

N.H./

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